

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Delbert Moss
Petitioner

V.

Supt. Wilson
Respondent

CIVIL ACTION

DOCKET# 1:05-CV-00143-MBC-SPB

MAGISTRATE JUDGE

Judge Susan Paradise

DISTRICT JUDGE

Judge Maurice B. Pohill, Jr.

BRIEF IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL

For the purpose of balancing the scales of justice, the plaintiff seeks appointment of counsel in this matter. Counsel can explain the applicable legal principles which must be applied to this case and assure that the litigation is limited to potential meritorious issues. In addition, appointment of a lawyer provides plaintiff with an opportunity to obtain representation equally qualified with the professional counsel employed by the respondents.

The court must determine whether the claim has some merit both in fact and law before counsel is appointed. SPEARS V. UNITED STATES, 266 F.SUPP. 25, 26 (S.D.W.VA. 1967); MILLER V. PLEASURE, 296 F2d 283 (2ND CIRC. 1961)

An indigent plaintiff is in no position to investigate his case, when he sued arresting officers or his keepers, for confiscating his personal property. SALVIN V. CURRY, 690 F2d 446 (5TH CIRC. 1982); SHIELDS V. JACKSON, 570 F2d 284, 285 (8TH CIRC. 1978); MACKLIN V. FREAKE, 650 F2d 885 (7TH CIRC. 1981); AND MURRELL V. BENNETT, 615 F2d 306, 311 (5TH CIRC. 1980) District Court should have appointed counsel to aid the plaintiff with his discovery. LOPEZ V. REYES, 692 F2d 15 (5TH CIRC. 1982); MANNING V. LOCKHART, 623 F2d 536 (8TH CIRC. 1980) Counsel should have been appointed when a question of credibility of a witness and serious allegations of fact existed. ROBINSON V. MEYERS, 222 F.Supp. 845, 848 (E.D. Pa. 1963), affirmed 326 F2d 972 (3RD CIRC. 1963) In BOUNDS V. SMITH, 97 S.Ct. 1491 (1977) and GORDON V. LEEKE, 574 F2d 1147, 1153 (4TH CIRC. 1978), it was stated that the court should appoint counsel where a pro se litigant has a colorable claim to present.

WHEREFORE, plaintiff requests that counsel be appointed in this matter.

DATE: 5/1/06

Respectfully submitted

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U.S. DISTRICT COURT

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